

GOVERNMENTAL RIGHT TO USE  
PRIVATE LANDS

California Civil Code, Section 1009, Paragraph (d)  
provides as follows:

"Where a governmental entity is using private lands by an expenditure of public funds on visible improvements on or across such lands or on the cleaning or maintenance related to the public use of such lands in such a manner so that the owner knows or should know that the public is making use of his land, such use, including any public use reasonably related to the purposes of such improvement, in the absence of either express permission by the owner to continue such use or the taking by the owner of reasonable steps to enjoin, remove or prohibit such use, shall after five years ripen to confer upon the governmental entity a vested right to continue such use."

This means that any DWP facility which is clearly visible, including access roads, and is in place and in use for five or more years may remain in place regardless of the objections of the property owner. The City's rights appear to be greater than simple prescriptive rights.

TLM